

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Adriana Lizarazo	Team: Team # 2	CCRB Case #: 201111181	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 08/22/2011 11:52 PM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 2/22/2013	EO SOL 2/22/2013	
Date/Time CV Reported Thu, 08/25/2011 2:27 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/31/2011 12:33 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM John Diaz	03864	948884	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Edward Fackler	02183	948948	PBBN
2. POM Raymond Welsh	13432	929348	075 PCT
3. POM Matthew Evans	07425	941719	075 PCT
4. SGT Steven Farrell	01044	921324	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.POM John Diaz	Force: PO John Diaz used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On August 22, 2011, § 87(2)(b) filed the following complaint with the Internal Affairs Bureau [IAB] generating log 11-38819 (encl.4A-4D). This case was forwarded and received by the CCRB on August 31, 2011. On August 22, 2011, at approximately 11:52 p.m., PO John Diaz of the Patrol Borough Brooklyn North stopped § 87(2)(b) in front of § 87(2)(b) in Brooklyn. § 87(2)(b) was arrested and the following allegation resulted:

Allegation A – Force: PO John Diaz used physical force against § 87(2)(b)

§ 87(2)(g)

Results of Investigation

Complainant/Victim: § 87(2)(b)

- *He is a § 87(2)(b)-year-old black male who is 5'7" tall, weighs 160 pounds and has black hair and brown eyes.* § 87(2)(b) § 87(2)(b).

CCRB Statement

§ 87(2)(b) was interviewed by IAB on August 25, 2011 (encl.5A-5E) and at the CCRB on September 29, 2011 (encl.7A-7D). He provided the following statement.

On August 22, 2011, at approximately 11:52 p.m., § 87(2)(b) his girlfriend, § 87(2)(b) and his friends § 87(2)(b) and § 87(2)(b), were drinking vodka from a bottle of Iced-tea at a park located at § 87(2)(b) in Brooklyn. § 87(2)(b) did not know § 87(2)(b)'s last name or his contact information. § 87(2)(b) and his friends were at the park for hours and then went to § 87(2)(b) in Brooklyn to wait for § 87(2)(b) cousin, § 87(2)(b) who resides in § 87(2)(b).

An officer, identified as PO John Diaz of the Patrol Borough Brooklyn North, approached § 87(2)(b) and his friends from the corner of § 87(2)(b) on foot and asked them to move. This was the first time § 87(2)(b) saw PO Diaz and PO Diaz told them that they could not stay in front of the building. § 87(2)(b) got up and walked towards the street because he did not want to hear anything PO Diaz had to say. PO Diaz talked to § 87(2)(b) and § 87(2)(b) who got up from the stoop and were listening to the officer. While PO Diaz talked, § 87(2)(b) waved one of his hands at him to show him his disinterest. PO Diaz became angry and told § 87(2)(b) that he was being disrespectful. § 87(2)(b) said "whatever" and told PO Diaz that he did not have to talk to him.

During the CCRB interview, § 87(2)(b) admitted being intoxicated but denied having an open container in front of § 87(2)(b). PO Diaz never said anything about an open container but § 87(2)(b) stated that PO Diaz must have smelled alcohol on his breath. § 87(2)(b) told IAB that he was stopped for possession of alcohol and a confrontation between him and PO Diaz ensued over whether the alcohol was his because § 87(2)(b) denied being in possession of it.

PO Diaz and § 87(2)(b) were approximately ten feet apart. PO Diaz approached § 87(2)(b) from behind and tackled him to the ground. § 87(2)(b) fell on his stomach and PO Diaz fell on top of § 87(2)(b). § 87(2)(b) told IAB that he tried to walk away from PO Diaz and PO Diaz grabbed him and threw him to the ground. While on the ground § 87(2)(b) did not move his arms and/or legs and did not try to get away from PO Diaz. § 87(2)(b) was faced down on the ground and PO Diaz punched § 87(2)(b) in the back of his head with his right hand a closed fist.

§ 87(2)(b) scraped the right side of his face on the concrete from the impact of the punch. § 87(2)(b) did not try to stand up while he was on the ground and denied resisting arrest. § 87(2)(b) did not curse at any officers.

A crowd of approximately twenty civilians formed and § 87(2)(b) yelled to his friends to watch what the officer was doing to him. § 87(2)(b) a friend of § 87(2)(b) was on the street and video recorded the incident on his cellphone. § 87(2)(b) did not know § 87(2)(b)'s last name and/or contact information. PO Diaz handcuffed one of § 87(2)(b)'s arms and an officer, identified through the investigation as PO Edward Fackler of the Patrol Borough Brooklyn North, came running from around the corner and placed his knees on § 87(2)(b)'s back.

PO Diaz and PO Fackler were on top of § 87(2)(b) and PO Diaz handcuffed both of § 87(2)(b)'s arms. § 87(2)(b) screamed of pain because the handcuffs were too tight and his body immediately went numb. § 87(2)(b) also stated multiple times that he could not feel his legs and arms. § 87(2)(b)'s friends tried to approach the officers and PO Diaz told them to move back and called for backup. § 87(2)(b) came out of his building sometime after § 87(2)(b) was in handcuffs.

PO Diaz asked § 87(2)(b) to get up from the ground and § 87(2)(b) told the officer that he could not feel his legs and could not get up. PO Diaz and PO Fackler picked § 87(2)(b) up from the ground but § 87(2)(b) could not stand on his own and fell to the ground. Four marked police cars responded to the location but the officers stayed in their vehicles. PO Diaz dragged § 87(2)(b) by his handcuffs from the sidewalk to a police van. PO Diaz and PO Fackler picked § 87(2)(b) up from the ground to place him in the van. § 87(2)(b) did not feel his legs and he fell hitting his chin on the step of the van.

§ 87(2)(b) was transported to the 75th Precinct by PO Diaz and two unidentified Hispanic male officers in uniform. § 87(2)(b) complained to PO Diaz and multiple other officers that the handcuffs were too tight and requested to go to the hospital. § 87(2)(b) indicated that throughout the entire incident he asked more than ten times for medical attention. Four hours later PO Diaz transported him to § 87(2)(b) where he was given Tylenol. At Central Booking, § 87(2)(b) was seen by EMTs and was told to go back to the hospital because his body was numb. PO Diaz did not take him to the hospital and transported him back to the 75th Precinct. Hours later, § 87(2)(b) was transported back to Central Booking.

Witness: § 87(2)(b)

§ 87(2)(b) was contacted by telephone on November 7, 2011 (encl.11A). An official statement was not obtained as § 87(2)(b) missed two appointments at the CCRB without calling ahead to cancel or to re-schedule. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b) were walking away from § 87(2)(b) in Brooklyn and PO Diaz tackled § 87(2)(b) to the ground. § 87(2)(b) did not run away. PO Diaz was on top of § 87(2)(b) when he was on the ground and punched him in the right side of his face and on his arm three times after he was in handcuffs. PO Fackler punched § 87(2)(b) four times in the right side of his face after he was in handcuffs. § 87(2)(b) did not move around and was not yelling. § 87(2)(b) came out of his building when § 87(2)(b) was on the ground in handcuffs.

Witness: § 87(2)(b)

§ 87(2)(b) was contacted by telephone on November 2, 2011 (encl.9A). An official statement was not obtained as § 87(2)(b) missed one appointment at the CCRB without calling

ahead to cancel or to re-schedule and he did not respond to the subsequent CCRB's attempts by telephone and mail to re-schedule. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) came outside of his building and PO Diaz and PO Fackler were on top of § 87(2)(b) who was faced down on the ground. § 87(2)(b) yelled to the officers to get off him. § 87(2)(b) refused to be handcuffed and tried to get up. PO Diaz and PO Fackler punched § 87(2)(b) in the right side of his face five times in total. The officers twisted § 87(2)(b) arms and handcuffed him.

Witness: § 87(2)(b)

§ 87(2)(b) was contacted by telephone on November 3, 2011 (encl.10A). An official statement was not obtained as § 87(2)(b) missed one appointment at the CCRB without calling ahead to cancel or to re-schedule and he did not respond to the subsequent CCRB's attempts by telephone and mail to re-schedule. § 87(2)(b), § 87(2)(g)

After telling the group that they could not stand in front of § 87(2)(b), PO Diaz and PO Fackler approached § 87(2)(b) and spoke to him for a minute. § 87(2)(b) did not hear their conversation. The officers saw a cup on the steps of the building that was at least five feet away from § 87(2)(b) and the officers thought it belonged to him. § 87(2)(b) repeatedly refuted this. § 87(2)(b) denied that the cup belonged to § 87(2)(b) or to any of them. § 87(2)(b) continued to tell the officers that the cup did not belong to him and PO Diaz told him that he was lying. PO Diaz asked § 87(2)(b) if he wanted to be a "smart ass" and said they would take him to the stationhouse. § 87(2)(b) took a step away from the officers but he did not run.

PO Diaz tackled § 87(2)(b) to the ground and punched him in one of his eyes. PO Fackler jumped on § 87(2)(b) while he was on the ground and § 87(2)(b) screamed at the officers and told them that he could not feel his arm. § 87(2)(b) did not refuse to be handcuffed and he did not curse at the officers. The officers placed him in handcuffs and § 87(2)(b) complained that the handcuffs were too tight and his arms were hurting. The officers re-adjusted the handcuffs to make them tighter.

Attempts to Contact Civilians

§ 87(2)(b) stated that his friends § 87(2)(b) and § 87(2)(b) were present during the incident and that § 87(2)(b) had a video of the incident. However, the CCRB was unable to obtain their statements and/or the video as § 87(2)(b) did not know his friends' last names or any contact information for them. § 87(2)(b) provided a telephone number for § 87(2)(b) which was disconnected.

NYPD Statement(s):

Subject Officer: PO JOHN DIAZ

- *He is a § 87(2)(b)-year-old Hispanic male who is 5'10" tall, weighs 210 pound and has black hair and brown eyes.*
- *On August 22, 2011, PO Diaz worked from 6:00 p.m. until 4:00 p.m., the next day. PO Diaz was assigned to foot post 36. He was dressed in uniform and was working alone.*

Arrest Report

§ 87(2)(b) was arrested on August 22, 2011, at 11:52 p.m., in front of § 87(2)(b). He was charged § 87(2)(b), § 87(2)(b),

§ 87(2)(b), § 87(2)(b), § 87(2)(b). The narrative shows that PO Diaz observed § 87(2)(b) with an open container and while attempting to stop defendant, § 87(2)(b) fled causing PO Diaz to chase and tackle § 87(2)(b) who refused to be handcuffed by flailing arms and causing public alarm. § 87(2)(b) also caused PO Diaz to sustain an abrasion to the left forearm (encl.12A-12C).

Memo Book

At 11:52 p.m., arrest of § 87(2)(b) DOB § 87(2)(b), § 87(2)(b). Perpetrator was stopped and fled on foot. Perpetrator resisted, flailed arms and caused an injury to officer's left forearm in front of § 87(2)(b). At 12:30 a.m., escorted to § 87(2)(b) for injuries. At 3:45 a.m., arrived at the 75th Precinct. At 5:10 a.m., paperwork faxed to E-cab. At 6:00 a.m., transported § 87(2)(b) to § 87(2)(b). At 8:30 a.m., transported prisoner back to the 75th Precinct (encl.13A-13C).

CCRB Statement

PO Diaz was interviewed at the CCRB on March 7, 2012 (encl.14A-14D). He provided the following statement.

On August 22, 2011, at approximately 11:52 p.m., PO Diaz was patrolling on the corner of § 87(2)(b) in Brooklyn when he crossed paths with § 87(2)(b) who was drinking from a cup and stunk of alcohol. PO Diaz did not recall the type of cup that § 87(2)(b) was drinking from. PO Diaz was not following § 87(2)(b) and had not seen him prior. PO Diaz asked § 87(2)(b) to stop and asked him to stand by the wall. § 87(2)(b) stopped but he repeatedly moved away from the wall and refused to provide his identification. PO Diaz informed § 87(2)(b) that he was going to issue him a summons. PO Diaz believed that § 87(2)(b) could attempt to flee and he called PO Fackler on his cellphone who was at the adjoining foot post for assistance. § 87(2)(b) appeared to be alone but other civilians were on that street. PO Diaz did not suspect § 87(2)(b) of anything else at the time and denied telling § 87(2)(b) that he could not stand in front of § 87(2)(b).

PO Fackler arrived at the location on foot within two minutes and PO Diaz explained the situation. When § 87(2)(b) saw that there was a second officer, he began running westbound from § 87(2)(b). PO Diaz and PO Fackler chased § 87(2)(b) on foot and PO Diaz tackled § 87(2)(b) to the ground at/or around the corner of § 87(2)(b) which is one block west. PO Diaz attempted to place § 87(2)(b) in handcuffs but he resisted arrest by flailing his arms and kicking his legs. § 87(2)(b) also twisted his body and PO Diaz and § 87(2)(b) rolled around on the ground. PO Diaz was able to place one of § 87(2)(b) hands in handcuffs and asked PO Fackler to call for additional units because a crowd of approximately thirty people had gathered around the officers and they were rowdy.

PO Diaz did not believe that PO Fackler assisted him in handcuffing § 87(2)(b) and PO Fackler was addressing the crowd and preventing them from getting closer. PO Diaz continued struggling to place § 87(2)(b) in handcuffs and told him to put his hands behind his back. § 87(2)(b) was violently resisting and PO Diaz admitted to striking § 87(2)(b) with a closed fist. However, PO Diaz did not recall where on the body he struck § 87(2)(b) and/or how many times he struck him. Several officers of the 75th Precinct, 73rd Precinct and Housing arrived on scene when PO Diaz was still struggling with § 87(2)(b). PO Diaz was able to place § 87(2)(b) in handcuffs and he did not recall if § 87(2)(b) complained that the handcuffs were too tight and/or that his arms were numb. PO Diaz did not recall if § 87(2)(b) was injured.

§ 87(2)(b) refused to stand on his own and walk to the police car. PO Diaz and another officer grabbed § 87(2)(b) by his arms and carried him to the police car. PO Diaz did not know the identity of this officer. § 87(2)(b) did not request medical attention at the arrest location or in

the vehicle. § 87(2)(b) was transported to the 75th Precinct stationhouse and PO Diaz was escorted to § 87(2)(b) because he was bleeding from his left hand and had an injury to his left forearm. PO Diaz injured himself when he tackled § 87(2)(b) to the ground and during the struggle. PO Diaz prepared Line of Duty paperwork but he did not miss any time.

PO Diaz went back to the 75th Precinct and § 87(2)(b) complained that his arms were hurting him from being handcuffed. § 87(2)(b) requested to go to the hospital once from PO Diaz and PO Diaz called an ambulance to the precinct and escorted § 87(2)(b) to § 87(2)(b). PO Diaz did not recall if § 87(2)(b) was handcuffed inside the holding cell and he did not know which officer lodged § 87(2)(b) in the cell. PO Diaz was not aware if § 87(2)(b) had requested medical attention from any other officers. § 87(2)(b) was discharged from the hospital and transported back to the 75th Precinct. PO Diaz did not recall if § 87(2)(b) requested medical attention again and he did not transport § 87(2)(b) to Brooklyn Central Booking.

Witness Officer: PO EDWARD FACKLER

- *He is a § 87(2)(b)-year-old black male who is 6'2" tall, weighs 210 pounds and has brown hair and brown eyes.*
- *On August 22, 2011, PO Fackler worked from 6:00 p.m. until 4:30 a.m., the next day. He was assigned to foot post #51. PO Fackler was dressed in uniform and was working alone.*

AIDED #3586

PO Fackler indicated that on August 22, 2011, PO Diaz sustained an abrasion to his left arm while effecting a lawful arrest (encl.15A-15B). Line of Duty for Injury Report is pending.

Memo Book:

At 11:52 p.m., arrest at § 87(2)(b) for § 87(2)(b) § 87(2)(b) by post #36 PO Diaz. Defendant § 87(2)(b) § 87(2)(b) DOB § 87(2)(b). At 12:05 a.m., PO Fackler assisting with paperwork for PO Diaz while PO Diaz was transported to § 87(2)(b) § 87(2)(b).

CCRB Statement:

PO Fackler was interviewed at the CCRB on March 8, 2012 (encl.17A-17D). § 87(2)(g)

PO Diaz called PO Fackler on his cellphone and requested assistance with a male he had stopped at the corner of § 87(2)(b) in Brooklyn. PO Diaz was alone and told PO Fackler that § 87(2)(b) may try to flee. PO Diaz also told PO Fackler that § 87(2)(b) was stopped for an open container of alcohol. PO Fackler was two blocks south from § 87(2)(b) § 87(2)(b) and arrived at the location on foot. PO Fackler walked towards the scene and saw PO Diaz standing next to § 87(2)(b) PO Fackler did not hear if anything was said between them. PO Fackler did not recall if there were any other individuals on the street at the time. When PO Fackler was approximately five feet from § 87(2)(b), § 87(2)(b) began running westbound towards § 87(2)(b) and was weaving between cars.

PO Diaz ran after § 87(2)(b) and PO Fackler was five feet behind. PO Diaz tackled § 87(2)(b) to the ground in front of § 87(2)(b). § 87(2)(b) was facing down on the ground and his left arm was handcuffed. § 87(2)(b) had his other arm tucked underneath his body to prevent the officers from handcuffing him. PO Fackler pulled § 87(2)(b) right shoulder and asked him for his arms but he did not comply. PO Fackler did not recall if § 87(2)(b) was doing anything else with his body and/or if he was making any statements. PO Fackler did not recall if

PO Diaz punched § 87(2)(b) anywhere on the body. PO Fackler described PO Diaz's use of physical force as putting his shoulders on § 87(2)(b) and grabbing him. PO Fackler did not use any physical force against § 87(2)(b) except for pulling his shoulder.

PO Diaz told PO Fackler to look up and PO Fackler noticed that they were surrounded by a crowd of twenty to thirty people who were angry and yelling at the officers. PO Fackler called for backup. PO Fackler was concentrating on the crowd and PO Diaz handcuffed § 87(2)(b) seconds after. Approximately ten police cars arrived at the location when § 87(2)(b) was in the process of being fully handcuffed.

§ 87(2)(b) refused to stand up on his own and two officers had to carry § 87(2)(b) to the police car. PO Fackler did not recall if he and/or PO Diaz were the officers who carried § 87(2)(b). § 87(2)(b) did not complain of pain and/or injuries nor did he complain that the handcuffs were too tight. PO Fackler did not recall any visible injuries on § 87(2)(b). PO Diaz showed PO Fackler that he sustained a scrape to his forearm and that his watch broke. PO Fackler assumed that PO Diaz sustained that injury from rolling around on the ground with § 87(2)(b) while effecting the arrest.

§ 87(2)(b) was transported to the 75th Precinct stationhouse in a marked police van. PO Fackler was in the van with § 87(2)(b) and he did not recall if he complained of injuries and/or pain inside the van. PO Fackler did not recall if he lodged § 87(2)(b) in the holding cell but he did recall fingerprinting him. PO Fackler did not remember if § 87(2)(b) was placed inside the cell in handcuffs. § 87(2)(b) did not request medical attention from PO Fackler and PO Fackler did not hear § 87(2)(b) requesting medical attention from any other officers. However, he later learned that PO Diaz took § 87(2)(b) to the hospital but he did not know why. PO Fackler did not transport § 87(2)(b) to Brooklyn Central Booking.

Officers Not Interviewed

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Medical Records

The ambulance call report and medical records from § 87(2)(b) indicated that § 87(2)(b) was diagnosed with a contusion to his left arm and a sprained left shoulder. § 87(2)(b) complained of pain to his left shoulder and arm and stated that he was pulled in wrong direction and his fingers felt numb. § 87(2)(b) also complained of wrist pain stating that the handcuffs were too tight. An abrasion was noted on § 87(2)(b) right cheek. § 87(2)(b) refused medications (encl.18A-18X).

NYPD Document(s)

IAB Callout #11-2329

On August 24, 2011 Sergeant Nicholas Danna and Sergeant Philip Sena of IAB Group 34 obtained statements from § 87(2)(b) and § 87(2)(b). § 87(2)(b) identified PO Diaz from a photo array and identified him as the officer who stopped him and tackled him (encl. 5A-5E).

On August 25, 2011, Sergeant Denny Inirio and Sergeant Shawn Tuthill from IAB Group 34 went to § 87(2)(b) residence and retrieved a video from § 87(2)(b)'s cellphone. IAB provided the following video summary: Video footage lasts 1 minute and 36 seconds, is of good quality but it is dark. At the start, § 87(2)(b) is seen sitting on the ground already handcuffed with two unidentified officers standing beside him. No confrontation appears to be taking place. A marked police car arrived and unidentified officers assist § 87(2)(b) to stand up and placed him in

the police car. The marked car drives away and the video concludes (encl.6A). On February 17, 2012, the CCRB confirmed with IAB that Sergeant Inirio and Sergeant Tuthill viewed the video at the location but they did not retrieve it. Therefore, the actual video footage was not available.

SPRINT M15625

An arrest was made at § 87(2)(b) by foot post 51. A sergeant from the 75th Precinct and sector E responded. The sergeant authorized no further units needed at the location (encl.19A-19B).

Command Log and Arrest Photo

§ 87(2)(b) was brought into the 75th Precinct stationhouse on August 23, 2011 at 12:20 a.m., and it was noted that he had an abrasion to the left cheek. This abrasion was depicted on § 87(2)(b) arrest photo (encl.8A). § 87(2)(b) was transported to § 87(2)(b) at § 87(2)(b) by ambulance (encl.20A).

Roll Call:

The 75th Precinct roll call tour 3 on August 22, 2011, showed that PO Diaz and PO Fackler were assigned to foot posts 36 and 51 respectively (encl.22A-22N).

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of April 19, 2012, with regard to the incident (encl.26Q).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

- § 87(2)(b) has filed one other CCRB complaint:

- § 87(2)(b)

Subject Officer(s) CCRB History

- PO Diaz has been a member of the service for one year and there are no substantiated CCRB allegations against him (encl.2A).

Conclusion

Identification of Subject Officer(s)

PO Diaz acknowledged his interaction with § 87(2)(b)

Investigative Findings and Recommendations

Allegations Not Pled

§ 87(2)(b), § 87(2)(g)

Allegation A – Force: PO John Diaz used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) PO Diaz tackled § 87(2)(b) to the ground and punched him at least once. § 87(2)(b) sustained an abrasion to his left cheek, a contusion to his left arm and a sprained left shoulder. PO Diaz sustained an abrasion to his left forearm.

Patrol Guide Procedure 203-11 authorizes an officer to use the amount of force necessary to overcome resistance to effect an arrest or take a mentally ill or emotionally disturbed person into custody (encl.1A-1B).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) denied fleeing the location but admitted to walking away upon PO Diaz's approach. § 87(2)(b) stated that § 87(2)(b) took a step back from PO Diaz and PO Diaz and PO Fackler both testified that § 87(2)(b) fled.

§ 87(2)(b) denied to physically resisting arrest which was corroborated by § 87(2)(b) and § 87(2)(b). However, all civilians stated that § 87(2)(b) was screaming and § 87(2)(b) and the officers testified that a large crowd gathered around them. § 87(2)(b) testified that § 87(2)(b) yelled at the officers to "get off him," refused to be handcuffed and tried to get up from the ground. PO Diaz stated that § 87(2)(b) refused to be handcuffed by flailing his arms, kicking his legs and twisting his body. PO Fackler corroborated that § 87(2)(b) refused to provide one of his arms to be handcuffed and that PO Diaz struggled to get him in handcuffs.

§ 87(2)(b) alleged that PO Diaz tackled him to the ground and punched him once in the head. PO Diaz admitted to taking § 87(2)(b) to the ground and punching him at least once. § 87(2)(b) did not allege being punched during his IAB interview and his medical records showed that he complained that his arm had been pulled the wrong way. PO Diaz sustained an injury to his left forearm during the arrest of § 87(2)(b) § 87(2)(g)

Team: _____

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date